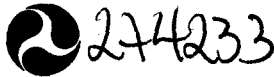


NHTSA-04-17384-1

ocket-SVC-124
Std 213



U.S. Department
of Transportation

**National Highway
Traffic Safety
Administration**

MAR 18 2004

400 Seventh Street, S.W.
Washington, D.C. 20590

04 MAR 22 AM 10:45

U.S. DEPARTMENT OF TRANSPORTATION

Mr. Randy Kiser
Evenflo Company, Inc.
707 Crossroads Court
Vandalia, OH 45377

Dear Mr. Kiser:

This responds to your letter asking whether Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child restraint systems, "preempts California's ability to require an additional specification for manufacturers." You ask about both a flammability requirement for filling materials and a requirement that a tag must be attached to the product indicating its compliance with the State standard.

We are authorized by 49 U.S.C. Chapter 301 ("the Safety Act") to issue Federal motor vehicle safety standards that establish performance requirements for new motor vehicles and items of motor vehicle equipment. We have used this authority to issue FMVSS No. 213 (49 CFR §571.213). Chapter 301 contains the following preemption provision (49 U.S.C. §30103(b)):

When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter....

Flammability Resistance Standard

FMVSS No. 213 sets forth flammability resistance requirements for child restraints. Pursuant to 49 U.S.C. §30103(b), California could not establish a standard that applied to the manufacture or sale of new child restraints in California on the flammability resistance of the restraints unless the State standard is identical to the requirements of S5.7 of FMVSS No. 213.



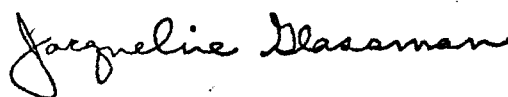
DOT AUTO SAFETY HOTLINE
888-DASH-2-DOT
888-327-4236

Additional Tag

You also ask whether California may require child restraints to have a tag indicating compliance with the State's flammability resistance requirement (assuming that the State's flammability resistance standard is not preempted). We assume that since the State flammability requirement itself is preempted, the tag would not be required. Further, because the State flammability resistance requirement is preempted, a State could not indirectly require child restraints to meet the State's flammability resistance requirement by way of requiring the tag.

If you have further questions, please contact Ms. Deirdre Fujita of my staff at (202) 366-2992.

Sincerely,

A handwritten signature in black ink that reads "Jacqueline Glassman". The signature is written in a cursive, flowing style.

Jacqueline Glassman
Chief Counsel